



## RAILROAD COMMISSION OF TEXAS OIL AND GAS DIVISION

April 19, 2010

CERTIFIED MAIL NO.: 7009 2250 0001 9789 9354

SUPERIOR CRUDE GATHERING, INC. (P-5 830262)  
P O BOX 260784  
CORPUS CHRISTI TX 78426

RE: Site Investigation Work Plan  
Falcon Refinery location  
Superfund CU site (EPA ID TXDO86278058)  
Ingleside Terminal site  
San Patricio County, Texas

This office received your April 5, 2010 Site Investigation Work Plan letter, prepared by Pastor, Behling & Wheeler, LLC. The work plan as proposed is not acceptable. We ask that by or before April 30, 2010, you incorporate the below suggestions into an amended site investigation work plan.

The purpose of the plan is to advise the Railroad Commission (RRC) how Superior intends to identify/delineate the nature and extent of contamination that has come to be located in soil and surface and subsurface water as a result of the crude oil releases between February 9 and 13, 2010, at Superior's Ingleside Terminal. Your sampling plan should confirm the success, or not, of current efforts to remove oil and oily materials from the surface, identify areas where vertical penetration occurred, and depth of vertical penetration.

Before proceeding, we need clarification on the following points:

What exactly is meant in on page two of the plan where it says, "The soil investigation described in Section 2 of this work plan will be conducted once all crude oil, visually contaminated material, and water used during the clean up have been removed from the tank farm area."? Does Superior intend to remove all crude oil from the soil, grass and water at the tank farm? Does Superior intend to remove all visually impacted soil? Please advise in detail. We presume Superior has removed or will remove all oil from impacted surface water, but please confirm this as well.

Identify the specific "applicable regulatory criteria" to which the plan refers in sections 2.1, the specific "applicable risk-based regulatory criteria" to which the plan refers under the heading "Task 3-Perform Risk-Based Screening," and the specific "applicable regulatory criteria" to which the plan refers in the last bullet on page five. In short, what regulatory criteria do you propose to use? RRC staff recommends using critical Tier 1 PCLs.

Here are comments on specific portions of the plan.

Locations and number of samples should be based on what was observed during surface removal. The sampling should occur on all parts of the NORCO property impacted by the release of crude oil from tank 13, tank 15, and from all of the underground piping that caused the oil to spread away from the containment areas of tanks 13 and 15. Oil saturated soil is likely present under the tanks and near the tank spill points. EPA generated a map or aerial photograph that identifies all places where the oil came to be located, and that map could be a basis for identifying surface soil sample locations. We understand that the EPA is available to provide raw Trimble data to transfer into Superior's Trimble to provide an outline of areas noted as contaminated.

One sample at each corner of each tank where oil came to be located is not enough. For every side of a tank that was impacted, there should be a sample at each end and three samples in between. Sampling frequency for other areas not

defined by tanks should be at similar distances. It may also be useful to take samples from places believed to be unimpacted within the containment areas to establish a background.

Based on observations of soil type and vegetative cover, your sampling plan should involve use of a hand auger (which helps address any underground piping concerns) or other boring equipment, to achieve the following objectives:

- 1) confirm the success or not of surface remediation; i.e., show that oily material at surface has been removed
- 2) characterize the vertical extent of any penetration that may have occurred, and
- 3) characterize concentrations of TPH and BTEX remaining in soil beneath areas where they removed free oil and oily materials from the surface.

Identify the occurrence of hydrocarbons in auger cores (or cuttings if hand auger is used) and record via boring log, whether hydrocarbons appear as NAPL saturating the soil, stain, or just odors. Discrete samples should be collected both from affected soils and unaffected soil so as to delineate the vertical extent of contamination. Because of anticipated shallow groundwater, we recommend that samples be collected in intervals no greater than 6 inches.

All this information (analytical and visual) can then be used to evaluate remediation options.

The proposed plan should address investigation of and possible removal of spilled crude from the underground piping that allowed movement of crude outside areas leased to Superior Crude Gathering, Inc. The proposed plan should include testing waste for VOC, SVOC, RCRA 8 Metals, chlorides and additional items for proper waste characterization.

Concerning the last bullet on page five, execution of this plan should result in identification of the nature and extent of soil and, if applicable, groundwater, impacted in any way by the releases on February 9 and 10, 2010. We expect to see sample results at each sampling location and will participate fully in deciding what requires remediation.

Please assure the plan includes a provision that this office will be provided at least three days notice prior to all sampling events so that we may attend.

Pursuant to SWR 91, this office directs you to remove all freestanding crude and associated liquids immediately. An inspection of the site on April 12, 2010 noted the following violations of Statewide Rules:

STATEWIDE RULE 8(d)(1): At the Falcon Refinery site a crude spill in excess of 20,000 barrels occurred leaving affected soil on site in a sensitive area.

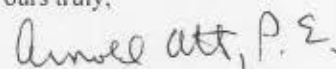
*Horizontal and vertical delineation and remediation of crude contamination based on Tier 1 criteria for crude constituents (such as BTEX and TPH) is preferred. Waste soils should be further characterized to include TPH, BTEX, VOC, SVOC, RCRA 8 Metals, chlorides, and additional items and/or information that provide for proper characterization. Submit an amended Site Investigation Work Plan by April 30, 2010, and a work plan for removal/remediation of affected soil by May 17, 2010.*

STATEWIDE RULE 91: Cleanup has not been completed. All free crude oil has not been removed.

*The site is a sensitive area. Remove all freestanding crude and associated liquids immediately. Submit updated proposal for contaminated soil removal/remediation by May 17, 2010.*

Please respond to this letter on or before April 30, 2010 with the items requested herein and indicating progress toward removal of free-phase crude and associated liquids, and contaminated soil removal/remediation. Our file review is scheduled on or after May 17, 2010. Your cooperation in correcting the above violations will be appreciated but will not eliminate further Commission action.

Yours truly,



Arnold Ott, P.E.  
Assistant District Director

Job Number: 2010-04 1522

David Cooney, Office of General Counsel, Railroad Commission of Texas